

COURTNEY CULWELL HILL (SBN: 210143)  
cchill@grsm.com  
SHANNON L. ERNSTER (SBN: 264940)  
sernster@grsm.com  
HELA VAKNIN (SBN: 342083)  
hvaknin@grsm.com  
GORDON REES SCULLY MANSUKHANI, LLP  
633 West Fifth Street, 52nd Floor  
Los Angeles, CA 90071  
Telephone: (213) 576-5000  
Facsimile: (213) 680-4470

Attorneys for Defendants  
AETNA LIFE INSURANCE COMPANY and  
COSTCO WHOLESALE CORPORATION

JONATHAN A. STIEGLITZ (SBN 278028)  
Jonathan@stieglitzlaw.com  
THE LAW OFFICES OF  
JONATHAN A. STIEGLITZ  
11845 W. Olympic Blvd., Suite 800  
Los Angeles, California 90064  
Telephone: (323) 979-2063  
Facsimile: (323) 488-6748

Attorney for Plaintiff  
BRAND SURGICAL INSTITUTE

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BRAND SURGICAL INSTITUTE,  
Plaintiff,

vs.

AETNA LIFE INSURANCE CO.,  
COSTCO WHOLESALE  
CORPORATION, and DOES 1-10,  
Defendants.

CASE NO. 2:22-cv-06261-AB-JC  
*Judge: Andre Birotte, Jr.*  
*Magistrate Judge:*  
*Hon. Jacqueline Chooljian*

STIPULATED PROTECTIVE  
ORDER<sup>1</sup>

<sup>1</sup> This Stipulated Protective Order is based on the model protective order provided under Magistrate Judge Chooljian's Procedures.

1. A. PURPOSES AND LIMITATIONS

As the Parties have represented that discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted, this Court enters the following Protective Order. This Order does not confer blanket protections on all disclosures or responses to discovery.

This Protective Order shall govern any record of information designated pursuant to this Protective Order and produced in this action, including all designated deposition exhibits, interrogatory answers, admissions, documents and other discovery materials, whether produced informally or in response to interrogatories, requests for admissions, requests for production of documents or other formal methods of discovery.

This Protective Order shall also govern any designated record of information produced in this action pursuant to required disclosures under any federal procedural rule or local rule of the Court and any supplementary disclosures thereto. This Protective Order shall apply to the Parties and to any nonparty from whom discovery may be sought who desires the protection of this Protective Order.

Further, as set forth in Section 12.3, below, this Protective Order does not entitle the Parties to file confidential information under seal. Rather, when the Parties seek permission from the court to file material under seal, the Parties must comply with Civil Local Rule 79-5 and with any pertinent orders of the assigned District Judge and Magistrate Judge.

B. GOOD CAUSE STATEMENT

In light of the nature of the claims and allegations in this case and the Parties' representations that discovery in this case will involve the production of confidential records, including personal health information and information regarding medical

services provided to the patients at issue, and in order to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the Parties are entitled to and/or required by law to keep confidential, to ensure that the Parties are permitted reasonable necessary uses of such material in connection with this action, to address their handling of such material at the end of the litigation, and to serve the ends of justice, a protective order for such information is justified in this matter. The Parties shall not designate any information/documents as confidential without a good faith belief that such information/documents have been maintained in a confidential, non-public manner, and that there is good cause or a compelling reason why it should not be part of the public record of this case.

## 2. DEFINITIONS

2.1 Action: The instant action: *Brand Surgical Institute v. Costco Wholesale Corporation, et al.*, USDC Case No. 2:22-cv-06261 AB (JCx).

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

The term Confidential Information shall include confidential or proprietary technical, scientific, financial, business, health, or medical information designated as “CONFIDENTIAL” by the producing party.

The term “Confidential Health Information” shall constitute a subset of Confidential Information, and shall be designated as “CONFIDENTIAL” and subject to all other terms and conditions governing the treatment of Confidential Information. Confidential Health Information shall mean information supplied in

1 any form, or any portion thereof, that identifies an individual or subscriber in any  
2 manner and relates to the past, present, or future care, services, or supplies relating  
3 to the physical or mental health or condition of such individual or subscriber, the  
4 provision of health care to such individual or subscriber, or the past, present, or  
5 future payment for the provision of health care to such individual or subscriber.  
6 Confidential Health Information shall include, but is not limited to, claim data,  
7 claim forms, grievances, appeals, or other documents or records that contain any  
8 patient health information required to be kept confidential under any state or federal  
9 law, including 45 C.F.R. Parts 160 and 164 promulgated pursuant to the Health  
10 Insurance Portability and Accountability Act of 1996 (see 45 C.F.R. §§ 164.501 &  
11 160.103), and the following subscriber, patient, or member identifiers:

- 12 a. names;
- 13 b. all geographic subdivisions smaller than a State, including street  
14 address, city, county, precinct, and zip code;
- 15 c. all elements of dates (except year) for dates directly related to an  
16 individual, including birth date, admission date, discharge date, age, and date  
17 of death;
- 18 d. telephone numbers;
- 19 e. fax numbers;
- 20 f. electronic mail addresses;
- 21 g. social security numbers;
- 22 h. medical record numbers;
- 23 i. health plan beneficiary numbers;
- 24 j. account numbers;
- 25 k. certificate/license numbers;
- 26 l. vehicle identifiers and serial numbers, including license plate numbers;
- 27 m. device identifiers and serial numbers;
- 28 n. web universal resource locators (“URLs”);

- o. internet protocol (“IP”) address numbers;
- p. biometric identifiers, including finger and voice prints;
- q. full face photographic images and any comparable images; and/or
- r. any other unique identifying number, characteristic, or code.

2.4 “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY”

Information or Items: extremely sensitive “CONFIDENTIAL” Information or Items, the disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.5 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.6 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.”

2.7 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.8 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.9 House Counsel: attorneys who are employees of a Party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.10 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.11 Outside Counsel of Record: attorneys who are not employees of a Party to this Action but are retained to represent or advise a Party to this Action and

1 have appeared in this Action on behalf of that Party or are affiliated with a law firm  
2 which has appeared on behalf of that Party, and includes support staff.

3 2.12 Party: any Party to this Action, including all of its officers, directors,  
4 employees, consultants, retained experts, and Outside Counsel of Record (and their  
5 support staffs).

6 2.13 Producing Party: a Party or Non-Party that produces Disclosure or  
7 Discovery Material in this Action.

8 2.14 Professional Vendors: persons or entities that provide litigation  
9 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
10 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
11 and their employees and subcontractors.

12 2.15 Protected Material: any Disclosure or Discovery Material that is  
13 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --  
14 ATTORNEYS’ EYES ONLY.”

15 2.16 Receiving Party: a Party that receives Disclosure or Discovery  
16 Material from a Producing Party.

### 17 18 3. SCOPE

19 The protections conferred by this Order cover not only Protected Material (as  
20 defined above), but also (1) any information copied or extracted from Protected  
21 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;  
22 and (3) any deposition testimony, conversations, or presentations by Parties or their  
23 Counsel that might reveal Protected Material, other than during a court hearing or at  
24 trial.

25 Any use of Protected Material during a court hearing or at trial shall be  
26 governed by the orders of the presiding judge. This Order does not govern the use  
27 of Protected Material during a court hearing or at trial.

1     4.     DURATION

2           Even after final disposition of this litigation, the confidentiality obligations  
3 imposed by this Order shall remain in effect until a Designating Party agrees  
4 otherwise in writing or a court order otherwise directs. Final disposition shall be  
5 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
6 or without prejudice; and (2) final judgment herein after the completion and  
7 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
8 including the time limits for filing any motions or applications for extension of time  
9 pursuant to applicable law.

10

11     5.     DESIGNATING PROTECTED MATERIAL

12           5.1     Exercise of Restraint and Care in Designating Material for Protection.

13     Each Party or Non-Party that designates information or items for protection under  
14 this Order must take care to limit any such designation to specific material that  
15 qualifies under the appropriate standards. The Designating Party must designate for  
16 protection only those parts of material, documents, items, or oral or written  
17 communications that qualify so that other portions of the material, documents,  
18 items, or communications for which protection is not warranted are not swept  
19 unjustifiably within the ambit of this Order.

20           Mass, indiscriminate, or routinized designations are prohibited. Designations  
21 that are shown to be clearly unjustified or that have been made for an improper  
22 purpose (e.g., to unnecessarily encumber the case development process or to impose  
23 unnecessary expenses and burdens on other parties) may expose the Designating  
24 Party to sanctions.

25           If it comes to a Designating Party's attention that information or items that it  
26 designated for protection do not qualify for protection, that Designating Party must  
27 promptly notify all other Parties that it is withdrawing the inapplicable designation.

28           5.2     Manner and Timing of Designations. Except as otherwise provided in

1 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise  
2 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
3 under this Order must be clearly so designated before the material is disclosed or  
4 produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (e.g., paper or electronic  
7 documents, but excluding transcripts of depositions), that the Producing Party affix  
8 at a minimum, the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --  
9 ATTORNEYS’ EYES ONLY” to each page that contains protected material.<sup>2</sup> If  
10 only a portion or portions of the material on a page qualifies for protection, the  
11 Producing Party also must clearly identify the protected portion(s) (e.g., by making  
12 appropriate markings in the margins).

13 A Party or Non-Party that makes original documents available for inspection  
14 need not designate them for protection until after the inspecting Party has indicated  
15 which documents it would like copied and produced. During the inspection and  
16 before the designation, all of the material made available for inspection shall be  
17 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
18 documents it wants copied and produced, the Producing Party must determine which  
19 documents, or portions thereof, qualify for protection under this Order. Then,  
20 before producing the specified documents, the Producing Party must affix the  
21 “CONFIDENTIAL”, or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES  
22 ONLY” legend to each page that contains Protected Material. If only a portion or  
23 portions of the material on a page qualifies for protection, the Producing Party also  
24 must clearly identify the protected portion(s) (e.g., by making appropriate markings  
25 in the margins).

26 (b) for testimony given in depositions that the Designating Party identifies  
27

---

28 <sup>2</sup> The “CONFIDENTIAL” designation shall be affixed to each page that contains Confidential Health Information.



on the record, before the close of the deposition as protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

## 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court’s Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1 et seq.

6.3 Burden. The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all Parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party’s designation until the Court rules on the challenge.

1     7.     ACCESS TO AND USE OF PROTECTED MATERIAL

2             7.1     Basic Principles. A Receiving Party may use Protected Material that is  
3 disclosed or produced by another Party or by a Non-Party in connection with this  
4 Action only for prosecuting, defending, or attempting to settle this Action and for no  
5 other action. A Receiving Party shall hold such information received from the  
6 disclosing Party in confidence, shall not use it for any business or other commercial  
7 purpose, shall not use it for filing or prosecuting any patent application (of any type)  
8 or patent reissue or reexamination request, and shall not disclose it to any person,  
9 except as hereinafter provided. Such Protected Material may be disclosed only to the  
10 categories of persons and under the conditions described in this Order. When the  
11 Action has been terminated, a Receiving Party must comply with the provisions of  
12 Section 13 below.

13             Protected Material must be stored and maintained by a Receiving Party at a  
14 location and in a secure manner that ensures that access is limited to the persons  
15 authorized under this Order.

16             7.2     Disclosure of “CONFIDENTIAL” Information or Items. Unless  
17 otherwise ordered by the court or permitted in writing by the Designating Party, a  
18 Receiving Party may disclose any information or item designated  
19 “CONFIDENTIAL” only to:

20             (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
21 well as employees of said Outside Counsel of Record (excluding experts and  
22 investigators) to whom it is reasonably necessary to disclose the information for this  
23 Action;

24             (b) the officers, directors, and employees (including House Counsel) of  
25 the Receiving Party to whom disclosure is reasonably necessary for this Action;

26             (c) Experts (as defined in this Order) of the Receiving Party to whom  
27 disclosure is reasonably necessary for this Action and who have signed the  
28 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

- 1 (d) the court and its personnel;
- 2 (e) private court reporters and their staff to whom disclosure is reasonably  
3 necessary for this Action and who have signed the “Acknowledgment and  
4 Agreement to Be Bound” (Exhibit A);
- 5 (f) professional jury or trial consultants, mock jurors, and Professional  
6 Vendors to whom disclosure is reasonably necessary for this Action and who have  
7 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 8 (g) the author or recipient of a document containing the information or a  
9 custodian or other person who otherwise possessed or knew the information;
- 10 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
11 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
12 requests that the witness sign the “Acknowledgment and Agreement to Be Bound”  
13 (Exhibit A); and (2) they will not be permitted to keep any confidential information  
14 unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
15 unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
16 transcribed deposition testimony or exhibits to depositions that reveal Protected  
17 Material may be separately bound by the court reporter and may not be disclosed to  
18 anyone except as permitted under this Protective Order;
- 19 (i) Stenographers and videographers engaged to transcribe or record  
20 depositions conducted in this action provided that such individuals agree in writing,  
21 in the form attached at Exhibit A, to be bound by the terms of this Order; and
- 22 (j) any mediator or settlement officer, and their supporting personnel,  
23 mutually agreed upon by any of the parties engaged in settlement discussions,  
24 provided that such individuals agree in writing, in the form attached at Appendix A,  
25 to be bound by the terms of this Order.

26 7.3 Disclosure of “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES  
27 ONLY” Information or Items. Confidential Information marked as “HIGHLY  
28 CONFIDENTIAL - ATTORNEYS’ EYES ONLY” may be used solely for the

purpose of conducting this Litigation and not for any other purpose whatsoever.

The Parties may designate Confidential Information as “CONFIDENTIAL - ATTORNEYS’ EYES ONLY” in the same manner set forth above with an added reference to “ATTORNEYS’ EYES ONLY.” Information designated “CONFIDENTIAL—ATTORNEYS’ EYES ONLY” may be viewed by, copied by, exhibited to, or disclosed to only the persons identified below:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record (excluding experts and investigators) to whom it is reasonably necessary to disclose the information for this Action;

(b) the court and its personnel;

(c) Stenographers and videographers engaged to transcribe or record depositions conducted in this action provided that such individuals agree in writing, in the form attached at Appendix A, to be bound by the terms of this Order; and

(d) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions, provided that such individuals agree in writing, in the form attached at Appendix A, to be bound by the terms of this Order.

#### 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order unless prohibited by law;

(b) promptly notify in writing the party who caused the subpoena or order

1 to issue in the other litigation that some or all of the material covered by the  
 2 subpoena or order is subject to this Protective Order. Such notification shall include  
 3 a copy of this Protective Order; and

4 (c) cooperate with respect to all reasonable procedures sought to be  
 5 pursued by the Designating Party whose Protected Material may be affected.

6 If the Designating Party timely seeks a protective order, the Party served with  
 7 the subpoena or court order shall not produce any information designated in this  
 8 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’  
 9 EYES ONLY” before a determination by the court from which the subpoena or  
 10 order issued, unless the Party has obtained the Designating Party’s permission, or  
 11 unless otherwise required by the law or court order. The Designating Party shall  
 12 bear the burden and expense of seeking protection in that court of its confidential  
 13 material and nothing in these provisions should be construed as authorizing or  
 14 encouraging a Receiving Party in this Action to disobey a lawful directive from  
 15 another court.

16  
 17 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
 18 PRODUCED IN THIS LITIGATION

19 (a) The terms of this Order are applicable to information produced by a  
 20 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY  
 21 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.” Such information produced by  
 22 Non-Parties in connection with this litigation is protected by the remedies and relief  
 23 provided by this Order. Nothing in these provisions should be construed as  
 24 prohibiting a Non-Party from seeking additional protections.

25 (b) In the event that a Party is required, by a valid discovery request, to  
 26 produce a Non-Party’s confidential information in its possession, and the Party is  
 27 subject to an agreement with the Non-Party not to produce the Non-Party’s  
 28 confidential information, then the Party shall:

1 (1) promptly notify in writing the Requesting Party and the Non-Party  
2 that some or all of the information requested is subject to a confidentiality  
3 agreement with a Non-Party;

4 (2) promptly provide the Non-Party with a copy of the Protective  
5 Order in this Action, the relevant discovery request(s), and a reasonably specific  
6 description of the information requested; and

7 (3) make the information requested available for inspection by the  
8 Non-Party, if requested.

9 (c) If a Non-Party represented by counsel fails to commence the process  
10 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the  
11 notice and accompanying information or fails contemporaneously to notify the  
12 Receiving Party that it has done so, the Receiving Party may produce the Non-  
13 Party's confidential information responsive to the discovery request. If an  
14 unrepresented Non-Party fails to seek a protective order from this court within 14  
15 days of receiving the notice and accompanying information, the Receiving Party  
16 may produce the Non-Party's confidential information responsive to the discovery  
17 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
18 not produce any information in its possession or control that is subject to the  
19 confidentiality agreement with the Non-Party before a determination by the court  
20 unless otherwise required by the law or court order. Absent a court order to the  
21 contrary, the Non-Party shall bear the burden and expense of seeking protection in  
22 this court of its Protected Material.

23  
24 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
26 Protected Material to any person or in any circumstance not authorized under this  
27 Protective Order, the Receiving Party must immediately (a) notify in writing the  
28 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve

all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” (Exhibit A).

# 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the Parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the Parties may incorporate their agreement into this Protective Order.

# 12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. No Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5 and with any pertinent



1 orders of the assigned District Judge and Magistrate Judge. Protected Material may  
2 only be filed under seal pursuant to a court order authorizing the sealing of the  
3 specific Protected Material at issue. If a Party's request to file Protected Material  
4 under seal is denied by the court, then the Receiving Party may file the information  
5 in the public record unless otherwise instructed by the court.

6  
7 **13. FINAL DISPOSITION**

8 After the final disposition of this Action, as defined in Section 4, within 60  
9 days of a written request by the Designating Party, each Receiving Party must return  
10 all Protected Material to the Producing Party or destroy such material. As used in  
11 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
12 summaries, and any other format reproducing or capturing any of the Protected  
13 Material. Whether the Protected Material is returned or destroyed, the Receiving  
14 Party must submit a written certification to the Producing Party (and, if not the same  
15 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
16 (by category, where appropriate) all the Protected Material that was returned or  
17 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
18 abstracts, compilations, summaries or any other format reproducing or capturing any  
19 of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
20 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
21 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
22 reports, attorney work product, and consultant and expert work product, even if such  
23 materials contain Protected Material. Any such archival copies that contain or  
24 constitute Protected Material remain subject to this Protective Order as set forth in  
25 Section 4.

26 ///

27 ///

28 ///



14. VIOLATION

Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: July 24, 2023

GORDON REES SCULLY  
MANSUKHANI, LLP

By: /s/ Shannon L. Ernster  
Courtney C. Hill  
Shannon L. Ernster  
Hela Vaknin  
Attorneys for Defendants  
AETNA LIFE INSURANCE COMPANY  
and COSTCO WHOLESALE  
CORPORATION

Dated: July 24, 2023

THE LAW OFFICES OF  
JONATHAN A. STIEGLITZ

By: /s/  
Jonathan A. Stieglitz  
Attorney for Plaintiff  
BRAND SURGICAL INSTITUTE

IT IS SO ORDERED.

DATED: July 25, 2023

/s/  
Honorable Jacqueline Chooljian  
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
I have read in its entirety and understand the Protective Order that was issued by the  
United States District Court for the Central District of California on July 25, 2023, in  
the case of *Brand Surgical Institute v. Costco Wholesale Corporation, et al.*, USDC  
Case No. 2:22-cv-06261 AB (JCx). I agree to comply with and to be bound by all the  
terms of this Protective Order and I understand and acknowledge that failure to so  
comply could expose me to sanctions and punishment in the nature of contempt. I  
solemnly promise that I will not disclose in any manner any information or item that  
is subject to this Protective Order to any person or entity except in strict compliance  
with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court  
for the Central District of California for the purpose of enforcing the terms of this  
Protective Order, even if such enforcement proceedings occur after termination of this  
action. I hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full address and  
telephone number] as my California agent for service of process in connection with  
this action or any proceedings related to enforcement of this Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_